

House Bill 1283

By: Representatives Smith of the 131<sup>st</sup>, Jones of the 46<sup>th</sup>, Keen of the 179<sup>th</sup>, Harbin of the 118<sup>th</sup>, Sheldon of the 105<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding state government, so as to provide definitions; to provide legislative findings; to provide that all budget units of the state shall implement a policy to review and modify, if necessary, all user fees collected; to provide principles to be followed when reviewing user fees; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding state government, is revised by adding a new Code section to read as follows:

"50-1-9.

(a) As used in this Code section, the term:

(1) 'Budget unit' means a department, institution, agency, or other unit of organization for which separate appropriations are made.

(2) 'User fee' means voluntary or mandatory payments made in exchange for a government good or service provided specifically to the fee payer. A revenue source meets this definition if the authorization for the fee explicitly or implicitly ties the fee to the activities of a specific program, such as a licensing fee charged by a regulatory program. Fines, penalties, late fees, or similar punitive charges are not included in this definition.

(b) The General Assembly finds:

(1) The state has no underlying principle or policy to guide the establishment and administration of user fees;

(2) User fees are charged to some groups for services similar to those that others receive at no charge;

(3) While some users of government services pay fee amounts that significantly exceed the cost of the service, many other users pay fees that cover only a small portion of the services;

(4) Budget units are not required to provide comprehensive information about their user fees to state budget officials;

(5) Budget units do not periodically review and update their user fee amounts; and

(6) Budget units frequently have not identified the cost of the goods and services associated with their fees.

(c) In order to address the issues raised in subsection (b) of this Code section, each budget unit in the state shall be required to review each of its user fees to determine if any user fee needs to be adjusted in order to adequately cover the cost of the goods and services provided. It is the intent of the General Assembly that all user fees collected by budget units in this state be reviewed and adjusted, if necessary, by October 1, 2010. If the amount of a user fee is codified in this Code on the effective date of this Code section, the appropriate budget unit shall pursue legislation to remove the amount of the user fee from the statute and authorize the budget unit to promulgate the amount of the user fee by rule, regulation, or agency policy. Each user fee shall then be reviewed again at least once every three years.

(d) Unless specifically stated otherwise in the Constitution, all user fees shall be remitted to the state treasury.

(e) The following items shall be considered in determining the proper amount to be charged as a user fee:

(1) The purpose of the fee. The user fee shall be charged in order to offset all associated costs, to recover the market value of public resources, to influence the behavior of users of government services, or a combination of these purposes;

(2) The specific activities associated with the user fee. User fees can be set to cover only specific activities of a program, to cover the entire cost of a program, or to cover costs of related activities outside the program;

(3) The cost of the good or service. The cost of the goods or services associated with a user fee should be tracked throughout the fiscal year or periodically estimated by agency personnel; and

(4) Factors other than cost. There may be other factors as important as cost when determining the appropriate amount of a user fee. The ability of users to pay, fees charged by other states or the federal government for similar services, and the prices charged by the private sector for similar services are all factors that may need to be considered.

63 (f) In addition to the other requirements of this Code section, on or before October 1, 2010,  
64 each budget unit shall submit to the Office of Planning and Budget a report quantifying  
65 which services it provides without charging a user fee that are similar to other services it  
66 provides while charging a user fee. An explanation as to the appropriateness of charging  
67 the user fee in one situation and not in the other shall be included in this report, along with  
68 the recommended amount, if any, that should be charged for the service that is now free."

69 **SECTION 2.**

70 This Act shall become effective upon its approval by the Governor or upon its becoming law  
71 without such approval.

72 **SECTION 3.**

73 All laws and parts of laws in conflict with this Act are repealed.